

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

CYNTHIA R. THOMPSON,

Plaintiff,

v.

SHARON HARRISON, et al.,

Defendants.

)
)
)
)
)
)
)
)
)
)

Case No. CIV-13-1008-HE

REPORT AND RECOMMENDATION

Plaintiff, a prisoner appearing *pro se*, has filed this action under 42 U.S.C. § 1983 alleging various violations of his constitutional rights. United States District Judge Joe Heaton has referred the matter to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B). By an Order, ECF No. 7, dated October 4, 2013, the undersigned found that the Plaintiff's Motion to Proceed *In Forma Pauperis*, **ECF No. 6**, was missing a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint, obtained from the appropriate official of each prison at which the prisoner is or was confined. The Order directed Plaintiff to cure these deficiencies on or before October 28, 2013. Plaintiff was further advised that failure to comply with the Order could result in dismissal of her action. ECF No. 7.

A review of the court file reveals that the Plaintiff has failed to cure the deficiencies or showing good cause for her failure to do so, or request an extension of time to comply with the Court's order. The undersigned finds that Plaintiff's failure to comply with the Court's Order, in light of the Court's right and responsibility to manage its cases, warrants dismissal of this action without prejudice. *See Nasious v. Two Unknown B.I.C.E. Agents at Arapahoe County Justice Center*, 492 F.3d 1158, 1161 n.2, 1162 (10th Cir. 2007) (*sua sponte* dismissal for failure to comply with Court's orders permitted under federal rules, and court need not follow any particular procedures in dismissing actions without prejudice for failure to comply).

RECOMMENDATION

It is therefore recommended that Plaintiff's Motion to Appear *In Forma Pauperis*, **ECF No. 6**, be **DENIED**. It is further recommended that this action be **DISMISSED WITHOUT PREJUDICE** to refiling. In addition, in light of the recommended disposition, Plaintiff's Motion for Order, **ECF No. 9**, Motion for Production of Documents, **ECF No. 11** and Motion for Order, **ECF No. 12** should be **DENIED** as moot. Plaintiff is advised of her right to file an objection to this Report and Recommendation with the Clerk of Court by **November 18, 2013**, in accordance with 28 U.S.C. § 636 and Fed.R.Civ.P. 72. Plaintiff is further advised that any failure to make timely objection to this Report and

Recommendation waives the right to appellate review of the factual and legal issues addressed herein. *Casanova v. Ulibarri*, 595 F.3d 1120, 1123 (10th Cir. 2010).

This Report and Recommendation **disposes of all issues** referred to the undersigned Magistrate Judge in the captioned matter.

ENTERED on October 31, 2013.



SHON T. ERWIN
UNITED STATES MAGISTRATE JUDGE